IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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S.B. CIVIL WRIT PETITION NO. 1112/2006
(Tej Singh Vs. Managing Director, RSRTC, Jaipur & Ors.)

Date of Order : 21/03/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. M.S.Godara for the petitioner.
Mr. Anil Bachhawat for the respondents.

BY THE COURT:-

By the instant writ petition, the petitioner has challenged the award dated 30.6.2005 Annex.7 passed by the respondent No.1, Judge, Labour Court (for short 'the Labour Court' hereinafter).

I have heard learned counsel for the parties. Perused the award Annex.7 impugned.

The facts and circumstances giving rise to the instant writ petition are that on a reference made by the Government of Rajasthan to the Labour Court dated 31.7.1999, the Labour Court adjudicated the reference and held that the termination of services of the petitioner w.e.f. 15.11.1983 by the respondents Managing Director, Rajasthan State Road Transport Corporation,

Parivahan Marg, Jaipur/ Chief Manager, Chittorgarh Depot, Chittorgarh (for short 'the employer Corporation) was proper and valid. The services of the petitioner were terminated w.e.f. 15.11.1983 on the ground that on 15.11.1983 while the petitioner was Conductor on the Bus owned by employer Corporation, he carried four passengers after having received the fare from them, without issuing tickets.

The petitioner was engaged by the employer as Conductor vide order dated 6.8.1983 on daily wages basis for a period of 30 days. Thereafter, the services of the petitioner were extended at his request by the employer. Lastly on 13.11.1983, the petitioner was engaged afresh for a period of 30 days on daily wages basis and only after two days of his engagement, the petitioner was found carrying four passengers without tickets though the fare was already charged by him.

Before the Labour Court the petitioner failed to establish his case. On the contrary, the respondent No.2 employer by reliable evidence established that the petitioner was found carrying passengers after having received the fare from them without tickets and thereby causing financial loss to the employer Corporation and therefore, the Labour Court was of the view that the termination of services of the petitioner were just and proper.

Before me, the counsel for the petitioner failed to

show any procedural error or illegality in the award impugned Annex.7 dated 30.6.2005.

In Regional Manager, RSRTC Vs. Ghanshyam Sharma (2002) 10 SCC 330, a three Judges Bench of Hon'ble Supreme Court held that the proved acts of misconduct either to a case of dishonest or of gross negligence and bus conductors who by their actions and inactions cause financial loss to the Corporation ought not to be retained in service. A similar view was taken by Hon'ble Supreme Court in Karnataka SRTC Vs. B.S. Hullikatti, (2001) 2 SCC 574.

While considering the quantum of punishment, Hon'ble Supreme Court in Divisional Controller, KSRTC (NWKRTC) Vs. A.T.Mane (2005) 3 SCC 254 held that while considering the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment; on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration. The Apex Court opined that when a person is found guilty of misappropriating the Corporation's funds, there is nothing wrong in the Corporation losing confidence or faith in such a person and awarding a punishment of dismissal.

In Divisional Controller, N.E.K.R.T.C. Vs. H. Amaresh AIR 2006 SC 2730, Hon'ble Supreme Court while setting aside

the order of the Division Bench ordering reinstatement held as under:-

> "We, therefore, have no hesitation to set aside the order passed by the learned Judges of the Division Bench and restore the order of dismissal of the respondent from service. It is stated that pursuant to the order of the Labour Court the respondent was reinstated in service. Since there was no stay granted by this Court the respondent had continued in service of the Corporation. In view of the law laid down by this Court and of the facts and circumstances of this case, the respondent, in our opinion has no legal right to continue in service any further. We, therefore, direct the appellant-Corporation to immediately discharge the respondent from service."

While examining the scope of interference in such matters, a three Judges Bench of Hon'ble Supreme Court in M.P. Electricity Board Vs. Jagdish Chandra Sharma (2005) 3 SCC 401 held that the tribunals would not sit in appeal over the decision of the employer unless there exists a statutory provision in this behalf. Moreover, Labour Courts must act within the four corners of the statute concerned, in terms of the provisions thereof. When the Labour Court having held that charge No.4 stood proved, no interference by the learned Single Judge or by the Division Bench was called for. In the instant case, the jurisdiction vested with the Labour Court has been exercised capriciously and arbitrarily in spite of the finding that Charge No.4, with regard to the pilferage, has been proved beyond any doubt. In our opinion, the conclusion arrived at by the High Court in

ordering reinstatement was shockingly disproportionate to the nature of charge No.4 found proved. When charge No.4 is proved, which is grave in nature, interference with the punishment of dismissal cannot be justified.

Keeping in view the catena of decisions of Hon'ble Supreme Court referred herein above, in my view, the Labour Court was justified in not interfering with the order of termination of services of the petitioner and has rightly adjudicated and answered the reference against the petitioner by the award impugned. In this view of the matter, no case for interference is made out.

The writ petition has no force and it is, therefore, dismissed. There shall be no order as to costs.

(H.R.PANWAR),J.

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